

### ***DETAILED ACTION***

#### **I. Action Summary**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/10/2009 has been entered.

2. Claims 1, 5, 8 and 17-21 are currently pending in this application.

Receipt is acknowledged of Applicant's response / amendment filed on 09/10/2009 that has been entered. After the Examiner's amendment below, claims 1, 5, 8 and 17-21 are now in condition for allowance.

The restriction requirement of 06/02/2008 is hereby withdrawn.

#### **II. Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a phone conversation with Robert W. Esmond on December 10, 2009.

The application has been amended as follows:

In claim 1, after "R1 represents in each case optionally substituted cycloalkyl, alkyl," please **ADD** --alkenyl,--.

In claim 5, after "G represents", please **DELETE** [one of the groups].

In claims 8, 17, 20 and 21, please **DELETE** [herbicide].

**III. Reasons for Allowance**

**Substance of Interview Summary**

All issues were discussed with Primary Examiner Kamal Saeed in a patentability conference on Dec. 9, 2009 at 12:30pm. The Examiner telephoned Mr. Robert Esmond. The new scope of the claims was discussed and compared to the unexpected results provided in the Declaration. Inclusion of "R1 represents alkenyl" in claim 1 was offered, since it is allowable and new claim 18 includes it. Claims 8, 17, 20 and 21 would be allowable if "herbicide" would be removed. Now, the Declaration of unexpected results would be sufficient to overcome the rejection of claims 1, 5, 8 and 17-21 because of the new scope of the invention presented in the claims as amended on 09/10/2009.

The following is an examiner's statement of reasons for allowance:

Applicant's amendments to the claims have overcome all rejections of claims 1, 5, 8 and 17-21. The Declaration of unexpected results of 03/30/2009 is persuasive and sufficient to overcome the rejection of claims 1, 5, 8 and 17-21 under 35 U.S.C. §103 (a) over WO 01/74770A and the rejection is hereby withdrawn. Prior art that contains similar species of WO 01/74770A is US 5,462,913 and also does not anticipate, neither render the claims obvious. Claims 1, 5, 8 and 17-21 are now found allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**IV. Telephone Inquiry**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VALERIE RODRIGUEZ-GARCIA whose telephone number is (571)270-5865. The examiner can normally be reached on Monday-Friday, 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kamal A Saeed/  
Primary Examiner, Art Unit 1626

/V. R. G./  
Examiner, Art Unit 1626

Application/Control Number: 10/578,900  
Art Unit: 1626

Page 5